THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. No. 14653 OF 1997

Date: 06.02.2007

Between:

Kandala MuraLI Mohan Babu.

... Petitioner.

And

The District Collector and President, District Scheduled Castes Service Co-op. society Ltd. Nellore, Nellore District and another.

... Respondents.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. No. 14653 OF 1997

ORDER:

Questioning the action of the respondents in appointing him as an attender though he was fully qualified to be appointed to the post of Junior Assistant in the first respondent society, the present writ petition is filed.

The petitioner's brother Sri K. Rajendra Prasad was appointed as a Work Inspector on NMR basis in the first respondent society. Since his services were terminated illegally he filed W.P. No. 11840 of 191997 and this Court, by order dated 26.12.1989, directed the respondents to regularize his services in the post of Works Inspector. After reinstatement and when the regularization proposals of Sri K. Rajendra Prasad was pending consideration, he met with an accident and died on 14.10.1994 while in service. Since his brother had died, the petitioner sought appointment on compassionate grounds and submitted a representation in this regard. Since his request was not considered, he filed W.P. No. 22562 of 1995 and this Court directed the first respondent to consider and dispose of the representation submitted by the petitioner within a period of one month. Eventually the first respondent, by proceedings dated 17.07.1996, appointed the petitioner as an Attender on compassionate grounds and he joined duty in the said post on 21.08.1996.

Petitioner would contend that, when he was appointed as an Attender, he was not aware of the vacancy position but later came to know that three posts of typists were vacant since a very long time. Petitioner would contend that, under G.O.Ms. No. 612 dated 30.12.1991, candidates, who did not possess typewriting qualification may also be considered for appointment as typist subject to the conditions that they acquire such qualifications within two years and since he was a graduate in commerce, belongs to B.C-B category and was attending typewriting classes, he was entitled for being appointed as a Typist in view of G.O.Ms. No. 612 dated 30.10.1991. Petitioner would contend that, one Smt. Padmaja was appointed as a Record Assistant in the Irrigation Department on compassionate grounds and though she possessed S.S.C. qualification alone, she was appointed as a Typist.

In the counter-affidavit filed on behalf of the first respondent, it is stated that there is no vacant post of either Junior Assistant or Typist in the Engineering wing of the respondent society as per existing staff pattern and that the Government orders on the aspect of compassionate appointment are not automatically applicable to the Corporation except in cases where such Government orders have been adopted. In view of the fact that there is no vacancy in the post of Junior

Assistant or Typist, and in as much as the Government orders are not automatically binding on the first respondent society, no mandamus can be issued directing them to consider the case of the petitioner for appointment on compassionate grounds either to the post of Junior Assistant or to the post of Typist.

Sri T. Balaji, learned Counsel for the petitioner, would submit that, since the petitioner was undergoing Typewriting classes in 1996, he would have passed and obtained Higher grade typewriting qualifications subsequently and as such would possess all the qualifications required for being appointed both to the posts of Junior Assistant and a Typist. Learned Counsel seeks sympathetic consideration in any vacancy which may have arisen subsequent to the filing of the writ petition. Since there is no material on record either to show that the petitioner has obtained the requisite qualifications for being appointed as a Typist or as to whether any vacancy arose subsequent to the filing of the writ petition, ends of justice would be met if the petitioner is permitted to submit a detailed representation to the first respondent within a period of four weeks from the date of receipt of a copy of this order and the said representation is considered by the first respondent in accordance with law and appropriate orders are passed thereupon within a period of three months from the date of receipt of such

representation.

The writ petition is accordingly disposed of. No costs.

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Date: 06.02.2007 RAMESH RANGANATHAN, J

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